

ESTTA Tracking number: **ESTTA235837**

Filing date: **09/10/2008**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Cognitec Systems GmbH
Granted to Date of previous extension	09/10/2008
Address	Grossenhainer Strasse 101 Turm B Dresden, 01127 GERMANY

Domestic Representative	Thomas W. Brooke Partner Holland & Knight LLP 2099 Pennsylvania Avenue, NW Suite 100 Washington, DC 20006 UNITED STATES thomas.brooke@hklaw.com, ptcketing@hklaw.com Phone:202 663-7271
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Applicant Information

Application No	77358551	Publication date	05/13/2008
Opposition Filing Date	09/10/2008	Opposition Period Ends	09/10/2008
Applicant	Cogneto Limited Third Floor, 15 Poland Street London, W1F8QE UNITED KINGDOM		

Goods/Services Affected by Opposition

Class 009. All goods and services in the class are opposed, namely: Computer software used for identification, verification and security purposes, involving personal characteristic or biometric recognition
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Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Mark Cited by Opposer as Basis for Opposition

U.S. Application/Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	COGNITEC		
Goods/Services	technology and computer software pertaining to face recognition		

Attachments	Cognitec TM Opposition.pdf (3 pages)(11296 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Thomas W. Brooke/
Name	Thomas W. Brooke
Date	09/10/2008

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Cognitec Systems GmbH,

Opposer,

v.

Cogneto Ltd.

Opposition No. _____
Application Serial No. 77/358,551

Applicant.

NOTICE OF OPPOSITION

In the matter of application Serial No. 77/358,551 (hereinafter, "Applicant's Application"), for the mark COGNETO (hereinafter "Applicant's Mark"), for goods and services, identified as "computer software used for identification, verification and security purposes, involving personal characteristic or biometric recognition" in international class 9 (hereinafter "Applicant's Goods and Services"), filed on December 21, 2007 by Cogneto Ltd. (hereinafter "Applicant"), and published in the Official Gazette of May 13, 2008; Cognitec GmbH, a limited liability company organized under the laws of the Federal Republic of Germany, having its principal place of business at Großenhainer Straße 101, Turm B 01127, Dresden, Germany (hereinafter "Opposer"), believes it will be damaged by the registration of Applicant's Mark and hereby opposes the registration of Applicant's Mark.

As grounds for the opposition Opposer declares as follows:

1. Opposer, by and through its non-exclusive licensee, Cognitec Systems Corporation, a corporation organized under the laws of the State of Delaware, USA, with principal place of business at 13800 Coppermine Road, Herndon, VA, 20171, USA, (hereinafter, "Licensee") first used the Trademark Cognitec (hereinafter, "Opposer's Mark") in commerce in connection with, inter alia, technology and computer software pertaining to face recognition, including biometric identification, comparison, similarity check and verification of persons, including capturing of high quality portrait photographs or high quality biometric samples for verification and identification, verifying person's identities by comparing live captured face images with previously registered face images, and scanning, detecting and tracking multiple persons in incoming video streams (hereinafter, "Opposer's Goods and Services") in the United States of America at least as early as 2002, and Opposer's Mark is currently in such use by Opposer, through its Licensee, in the United States of America.
2. Opposer, through its Licensee, used Opposer's Mark in commerce in connection with Opposer's Goods and Services prior to the date upon which Applicant filed Applicant's Application in the United States Patent and Trademark Office.

3. On information and belief, Opposer, through its Licensee, used Opposer's Mark in commerce in connection with Opposer's Goods and Services prior to date, if any, upon which Applicant first used Applicant's Mark in connection with Applicant's Goods and Services.
4. On information and belief, Opposer's rights in and to Opposer's Mark are superior to Applicant's rights in Applicant's Mark by virtue of Opposer's prior use of Opposer's Mark in commerce.
5. Applicant's Mark resembles Opposer's Mark in terms of sound, appearance, meaning and overall commercial impression.
6. Applicant's Goods and Services are closely related, and in some instances they match entirely. The conditions surrounding their marketing are such that they are likely to be encountered by the same customers under circumstances that are likely to give rise to the mistaken belief that the respective goods and services of Applicant and Opposer come from a common source.
7. In view of Opposer's prior use of Opposer's Mark in commerce, the resemblance of Applicant's Mark and Opposer's Mark, and the high proximity between Applicant's Goods and Services and Opposer's Goods and Services, the registration of Applicant's Mark for Applicant's Goods and Services will injure Opposer by causing a likelihood of customer confusion, mistake or deception as to the source or sponsorship of the respective goods and services of Applicant and Opposer, to Opposer's damage, and in violation of the provisions of the Trademark Act Section 2(d) of the Trademark Act of 1946, 15 U.S.C. Section 1052(d).

WHEREOF, Opposer request that this Notice of Opposition be sustained and registration of application Serial No. 77/358,551 be refused.

Respectfully submitted,

Cognitec GmbH

By:_____/Thomas W. Brooke/_____
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Date: September 10, 2008

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was furnished by U.S. Mail to Cogneto Ltd., 15 Poland Street, 3rd Street, London, W1F8QE, United Kingdom, this 10th day of September, 2008.

/Thomas W. Brooke/